

REMARKS

Initially, Applicant respectfully acknowledges that the Examiner has objected to claim 13 and has indicated that dependent claim 13 would be allowable if rewritten in independent form including all the limitations of the base claims and any intervening claims.

Claims 1-15 are pending in the application. Claim 3 has been withdrawn from consideration by the Examiner, leaving claims 1, 2, and 4-15 for consideration.

Reconsideration of the rejections and allowance of the pending application in view of the foregoing amendment and following remarks are respectfully requested.

In the Office Action of August 12, 2005, claims 1, 2, and 4-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abe, U.S. Patent No. 6,475,141 (hereinafter "Abe") in view of Deng et al., U.S. Patent No. 6,765,619 (hereinafter "Deng"). This rejection is respectfully traversed.

Independent claims 1, 14 and 15 have been amended to more clearly define a structural feature of an embodiment and to more clearly distinguish over the applied prior art references by further reciting the calculation of the representative luminance calculator calculating on the basis of at least the peak luminance level. No new matter is introduced by the present amendment. In this regard, the Examiner's attention is directed to the paragraphs in line 13 of page 19 – line 23 of page 20.

P23971.A03

It is a feature of an embodiment to provide an electronic endoscope apparatus configured to maintain the brightness of the subject properly regardless of the existence of minute areas with high luminance levels.

To achieve the above-noted feature, an electronic endoscope apparatus having a video-scope with an image sensor and a video-processor, as recited in amended claim 1, includes, inter alia, a light source that radiates light for illuminating a subject, a pixel luminance detector that detects a luminance level of each pixel in a plurality of pixels, that forms a subject image displayed on a display, in accordance with image-pixel signals read from the image sensor, a division setter that divides the subject image into a plurality of blocks composed of given pixels, an average block luminance calculator that calculates a plurality of average block-luminance-levels, each of which indicates a substantial average-luminance-level of the corresponding block, the average block-luminance-levels being calculated from a plurality of luminance levels of pixels arranged in the corresponding block, a peak-luminance determiner that compares the average block-luminance-levels with each other to determine a substantially maximum average block-luminance-level from the plurality of average block-luminance-levels as a peak luminance level, a representative luminance calculator that calculates a representative luminance level indicating a brightness of the subject image on the basis of at least the peak luminance level, and a brightness adjuster that adjusts the brightness of the subject image in accordance with the representative luminance level.

Applicant respectfully submits that the cited references relied upon in the rejection under 35U.S.C. 103(a) do not disclose such a combination of features.

The primary Abe reference, as the Examiner has indicated, does not disclose a peak-luminance determiner that compares the average block-luminance-levels with each other to determine a substantially maximum average block-luminance-level from the plurality of average block-luminance-levels as a peak luminance level.

The Examiner has, however, asserted that Figs. 5a-5c of the secondary reference Deng has disclosed the above-noted feature.

However, Applicant submits that the Deng reference does not teach a peak-luminance determiner that compares the average block-luminance-levels with each other to determine a substantially maximum average block-luminance-level from the plurality of average block-luminance-levels as a peak luminance level, as cited in claim 1. Instead, in the peak value method disclosed in Deng, the exposure controller 120 searches at least one pixel in a region that has a saturation level equal to or higher than the preset saturation ceiling (See, column 4, lines 58-67). In other words, the peak value method is performed for a pixel in one block and thus is not related with the average value method (See, column 5, lines 1-7).

Further, neither the Deng nor Abe reference discloses a peak-luminance determiner that compares the plurality of average block-luminance-levels, corresponding to the plurality of blocks, with each other to determine the peak luminance level.

In an aspect of Application's embodiment, however, as explained above, the average block luminance calculator calculates the average block-luminance-levels in each block. Then, the peak-luminance determiner compares the calculated average block-luminance-levels with each other, and determines a substantially maximum average block-luminance-level as a peak luminance level, as recited in claim 1 (See, also pages 19-20, and Figs. 4A and 4B of Applicant's application).

Thus, neither Abe nor Deng reference render the presently claimed invention unpatentable, and, even assuming, arguendo, that the teachings of Abe and Deng can be properly combined, the asserted combination of Abe and Deng would not result in the invention as recited in claim 1.

Independent claims 14 and 15 also recite the above-noted peak-luminance determiner as recited in claim 1, and are patentable for substantially the same reasons as set forth with respect to claim 1.

Thus, the rejection of independent claims 1, 14 and 15 and of dependent claims 2, and 4-15 under 35 U.S.C. 103(a) is improper for at least these reasons, and withdrawal of such rejection is respectfully requested.

In the Official Action the Examiner has maintained the election of species requirement of June 22, 2005.

Applicant again respectfully requests that the Examiner reconsider and withdraw the election requirement for the reasons indicated in the Response of July 22, 2005 and the foregoing amendment in the claims.

Independent claims 1, 14 and 15 are now in condition for allowance in view of the amendments and the above-noted remarks. Dependent claims 2, and 4-13 are also submitted to be in condition for allowance in view of their dependence from the allowable base claims and also at least based upon their recitations of additional features of the present invention. It is respectfully requested, therefore, that the rejections under 35 U.S.C.103(a) be withdrawn and that an early indication of the allowance thereof be given. The Examiner is also respectfully requested to rejoin claim 3 as depending from allowable claim 1.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based on prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to be attached thereto.

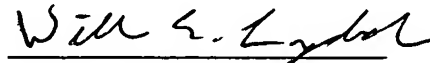
Based on the above, it is respectfully submitted that this application is now in condition for allowance, and a Notice of Allowance is respectfully requested.

P23971.A03

Should the Examiner have any questions or comments regarding this response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,

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